



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/332,385	10/31/94	UEDA	T

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F1M1/0216

DEPUMPO	
ART UNIT	
PAPER NUMBER	
3108	11

DATE MAILED:

02/16/96

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☒ Applicant's failure to respond to the Office letter, mailed 12/14/95.
- ☐ Applicant's letter of express abandonment which is in compliance with 37 C.F.R. 1.138.
- ☐ Applicant's failure to timely file the response received _____ within the period set in the Office letter.
- ☐ Applicant's failure to pay the required issue fee within the statutory period of 3 months from the mailing date of _____ of the Notice of Allowance.
 - ☐ The issue fee was received on _____.
 - ☐ The issue fee has not been received in Allowed Files Branch as of _____.

In accordance with 35 U.S.C. 151, and under the provisions of 37 C.F.R. 1.316(b), applicant(s) may petition the Commissioner to accept the delayed payment of the issue fee if the delay in payment was unavoidable. The petition must be accompanied by the issue fee, unless it has been previously submitted, in the amount specified by 37 C.F.R. 1.17 (l), and a verified showing as to the causes of the delay.

If applicant(s) never received the Notice of Allowance, a petition for a new Notice of Allowance and withdrawal of the holding of abandonment may be appropriate in view of *Delgar Inc. v. Schuyler*, 172 U.S.P.Q. 513.

- ☐ Applicant's failure to timely correct the drawings and/or submit new or substitute formal drawings by _____ as required in the last Office action.
 - ☐ The corrected and/or substitute drawings were received on _____.
- ☐ The reason(s) below.

DANIEL G. DePUMPO
PRIMARY EXAMINER
GROUP 3100

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1. Applicant's election with traverse of Species II, fig. 3 (claim 2 readable thereon) in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the species are sufficiently similar to warrant that they be searched together. This is not found persuasive because the reason for the election of species requirement is that there are claims drawn to patentably distinct species. It is not necessary to show a separate status in the art or separate classification. See MPEP 808.08(a) If Applicant feels that the species are not patentably distinct, Applicant should provide a clear admission of this on the record. If this is done, however, and the examiner finds prior art for one species, this prior art will be applied against all species in an obviousness rejection.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1, 3-11, 13, 14 and 16-29 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected species, the requirement having been traversed in Paper No. 5.

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. Claim 2 is finally rejected under 35 U.S.C. § 103 as being unpatentable over Ueda et al. '030 in view of Ogino et al.

Ueda et al. '030 discloses all features including the use of expanded graphite. While Ueda does disclose that the graphite sheets and reinforcing fiber are "laminated" (which usually involves adhesive bonding), adhesives are not explicitly mentioned.

Ogino et al. teaches the use of longitudinally disposed fibers which are laminated with expanded graphite sheets by adhesives for the purpose of reinforcing the graphite sheets.

Therefore, it would have been obvious, in view of Ogino et al., to use adhesive to laminate the graphite sheets and fiber of Ueda together.

5. Claim 2 is finally rejected under 35 U.S.C. § 103 as being unpatentable over DeWitt, Sr. in view of Schnitzler.

DeWitt discloses the packing substantially as claimed, including the use of graphite, but does not specifically disclose the use of expanded graphite. Schnitzler teaches the well known

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use of expanded graphite which is preferred for use in packings due to its mechanical properties. Therefor, it would have been obvious, in view of Schnitzler, to utilize expanded graphite due to its preferred mechanical properties and commercial availability.

6. Claim 2 is finally rejected under 35 U.S.C. § 103 as being unpatentable over Case et al. in view of Schnitzler.

Case et al. discloses all features except for the use of expanded graphite. Case et al. discloses a packing made of braided yarns wherein the yarns are made up of twisted or braided fibers and graphite. Case et al. also discloses the use of TFE binder which acts as an adhesive to bind the graphite to the fibers (also see Ueda et al. '030 column 5, lines 19-20).

Schnitzler teaches the well known use of expanded graphite which is preferred for use in packings due to its mechanical properties. Therefor, it would have been obvious, in view of Schnitzler, to utilize expanded graphite due to its preferred mechanical properties and commercial availability.

7. This is a continuation of applicant's earlier application S.N. 08/164,782. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds or art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

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action in this case. See M.P.E.P. § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

It is noted that claim 2 of the instant application is identical to claim 2 that was rejected in paper numbers 6, 10 and 14 of the parent application.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Ueda et al. '722 and Poltorak et al were applied in the parent application.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel G. DePumpo whose telephone number is (703) 308-1113.



DANIEL G. DePUMPO
Primary Examiner
Art Unit 3108

dgd
June 20, 1995